



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.22189 of 2021

(Through Video Conferencing)

S.Ramakrishnan

... Petitioner

Vs.

1. The Commissioner of Municipal Administration,
11th Floor, Urban Administrative Bldgs,
No.75, Santhome High Road,
MRC Nagar, Raja Annamalai Puram,
Chennai - 600 028.

2. The Commissioner,
Thiruvallur Municipality,
Thiruvallur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, to direct the 1st respondent herein to consider and pass orders on the proceedings of the 2nd respondent vide his proceedings dated 30.01.2020 & 18.03.2020 and thereby regularize the services of the petitioner in the post of Driver with effect from 20.01.2001 the date on which he was temporarily appointed as Driver with all monetary and service benefits.

For Petitioner : Mr.A.R.Suresh

For Respondents : Mr.L.S.M.Hasan Fizal
Government Advocate

O R D E R

Mr.L.S.M.Hasan Fizal, learned Government Advocate takes notice on behalf of the respondents.

2.The petitioner has been working in the Thiruvallur Municipality since 1992. On 16.10.1992 the petitioner was appointed as a substitute Sanitary Worker on daily wage basis at



3. The learned counsel for the petitioner submits that the Government of Tamil Nadu passed an order in G.O.Ms.No.71 (MA&WS) Department, dated 05.05.1998, as per which daily wage workers were to be brought under consolidated pay of Rs.1000/- for a period of 1½ years and thereafter regularised and brought under the regular time scale of pay. It is submitted that the Petitioner was working in the capacity of a temporary driver since 02.01.2001 and had completed 1½ years in July 2002 as a temporary driver. It is therefore submitted that the petitioner thus became eligible for the time scale of pay as per the aforesaid order.

5. It is submitted that later an order was issued by the 1st respondent on 23.06.2005 and directed the 2nd Respondent to bring the petitioner and other persons under the regular time scale of pay. Accordingly, the 2nd Respondent vide proceeding dated 29.06.2005 brought the petitioner under time scale of pay with effect from July 2002. The petitioner has submitted that he has been receiving salary under the scale of pay applicable to sanitary workers from July 2005 while discharging duty in the capacity of a Driver for the 2nd respondent.

7.The petitioner had later filed a W.P.No.2706 of 2008. The said Writ Petition came to be disposed by an order dated 05.08.2008 with the following observations:

<https://hcservices.ecourts.gov.in/hcservices/>



11.It is further submitted on 05.04.2019, a vacancy arose in the Driver posts due to the death of one Mr.Karunakaran who was working as a Sewage Lorry Driver/Driver on deputation for the 2nd respondent. On 15.05.2019, the Petitioner made another representation to the 2nd respondent quoting the earlier order dated 29.10.2008 and this was met with no response.

12.The Petitioner approached this Court in W.P.No.33859 of 2019 which came to be disposed on 04.12.2019 with the following observations:

"This writ petition has been filed seeking for the writ of mandamus directing the 2nd respondent to consider the representation made by the petitioner and to appoint him in the post of Driver on regular basis with all monetary benefits.

2.It is the case of the petitioner that he was appointed as a substitute Sanitary Worker through Employment Exchange at Thiruvallur Municipality during the year 1992. The petitioner had made a representation to appoint him to the post of Driver and for regularization of the service w.e.f. 02.01.2001. Since the same was not considered by the 1st respondent, petitioner approached this Court and filed W.P.No.2706 of 2008. This Court gave a direction to the respondents to consider the claim made by the petitioner and pass appropriate orders within a period of four weeks.

3.Even after the order passed by this Court, since the respondents did not pass any orders, the petitioner issued contempt notice to the respondents. The 2nd respondent passed an order on 29.10.2008 to the effect that there is no Driver post vacant in the 2nd respondent Municipality and as and when the post falls vacant, the petitioner will be considered on a preferential basis subject to his eligibility. However, no steps were made to appoint the petitioner as a Driver and the petitioner continued to work in the Municipality on a temporary basis.

4.Ultimately, the petitioner came to know that there were vacancies in the post of Driver and out of four sanctioned posts, one



WEB COPY

post became vacant during the year 2019. Therefore the petitioner made a representation to the 2nd respondent, bringing to his notice, the earlier order passed on 29.10.2008 and requested the 2nd respondent to consider the appointment of the petitioner as a Driver on preferential basis. In spite of receipt of the representation, since no orders were passed by the 2nd respondent, the petitioner has approached this Court seeking for appropriate directions.

5. Heard Mr.A.R.Suresh, learned counsel appearing on behalf of the petitioner and Ms.K.Bhuvaneswari, learned Additional Government Pleader appearing on behalf of the respondents.

6. Taking into consideration the facts and circumstances of the case and the limited prayer that has been sought for by the petitioner, there shall be a direction to the 2nd respondent to consider the representation made by the petitioner on 15.05.2019 to appoint him as a Driver in the vacancy that has arisen, as per the earlier order passed by the 2nd respondent on 29.10.2008 and pass final orders, strictly in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

7. This writ petition is disposed of with the above direction. Consequently, connected miscellaneous petitions are closed."

13. Now, the order has been passed by the 2nd respondent vide proceedings dated 30.01.2020 and 18.03.2020. There is a change in circumstances on account of the death of Driver Karunakaran. Though the 2nd respondent has sent recommendations on 30.01.2020 and on 18.03.2020, it appears that no further orders have been passed by the 2nd respondent on the recommendations of the 2nd respondent.

14. Considering the same, this writ petition is disposed of by directing the 1st respondent to pass appropriate orders on merits and in accordance with law based on the recommendations of the 2nd respondent dated 30.01.2020 and 18.03.2020 within a period of eight weeks from the date of receipt of a copy of this order. In case, the petitioner has satisfied the other requirements for being absorbed as a driver, the petitioner may be issued with an appointment letter to the post of a driver. It



is made clear that while considering the above recommendation of the 2nd respondent, rights of other Sanitary Workers may also be kept in mind. No costs.

WEB COPY

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

jas

To

1. The Commissioner of Municipal Administration,
11th Floor, Urban Administrative Bldgs,
No.75, Santhome High Road,
MRC Nagar, Raja Annamalai Puram,
Chennai - 600 028.
2. The Commissioner,
Thiruvallur Municipality,
Thiruvallur.

+1cc to Mr.A.R.Suresh, Advocate, S.R.No.53955 (29/12/2021)

W.P.No.22189 of 2021

GPL (CO)
SU (17/12/2021)